



Paper No. 5

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In re Application of
Tin-Tack Peter Cheung et al.
Application No. 09/801,558
Filed: March 8, 2001

OFFICE OF PETITIONS
DECISION GRANTING
PETITION

This is a decision on the petition, filed May 20, 2003, requesting that the above-identified application, without drawings, be accorded a filing date of March 8, 2001.

The application was filed on March 8, 2001, without drawings.¹ Accordingly, on January 22, 2002, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on May 20, 2003, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented. Petitioners request that the application, without drawings, be accorded a filing date of April 5, 2001.

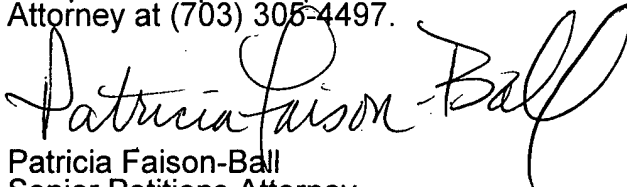
It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).² Since the application was filed with at least one claim directed to a process or method, the application should have been treated as an application for which a drawing is not necessary and the Office of Initial Patent Examination should have mailed a "Notice Of Omitted Item(s)." See MPEP § 601.01(f).

In view of the above, the Notice mailed January 22, 2002, is hereby withdrawn. The application is accorded a filing date of March 8, 2001, without drawings.

The petition is granted. No fees are due and none have been charged.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 8, 2001, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.


Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

²MPEP 601.01(f).